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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087899,434	07/24/97	JOHNSON	10172-9013

QM21/0701

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EXAMINER  
PARADISO, J

ART UNIT PAPER NUMBER  
3721 2

DATE MAILED: 07/01/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



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*7-1-98*  
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Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/899,434

Applicant(s)  
JOHNSON

Examiner  
John Paradiso

Group Art Unit  
3721



☒ Responsive to communication(s) filed on Jul 24, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-82 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-82 are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-3, 8-19, 34-35, and 61-71, drawn to a method and apparatus for sealing a tape to a web, classified in class 156.
  - II. Claims 25-29, drawn to a method of making and filling a bag, classified in class 53, subclass 412
  - III. Claims 45-51, drawn to a method of making a bag, classified in class 53, subclass 459.
  - IV. Claims 56-60, drawn to a method of making a tape for a reclosable seal, classified in class 156.
  - V. Claims 4-7, drawn to a an apparatus for dispensing, applying, and sealing a tape to a web for making bags, classified in class 53, subclass 412.
  - VI. Claims 20-22, drawn to a synchronizing apparatus, classified in class 198.
  - VII. Claims 39-41, 72-74, and 77-79, drawn to a reclosable tape, classified in class 24.
  - VIII. Claim 36-38 and 80, drawn to a web, classified in class 428.

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- IX. Claims 75-76, drawn to an apparatus for making a tape, classified in class 156.
- X. Claims 30-33 and 42-44, drawn to a reclosable bag, classified in class 206.
- XI. Claims 23-24, drawn to a vacuum belt slit, classified in class 198.
- XII. Claims 52-55, drawn to a fastener flange, classified in class 24

(Note that claims 81 and 82 could not be included in the above - claim 81 recites "the method claim 23" but claim 23 is not a method and claim 82 recites "the apparatus of claim 16" but claim 16 is not an apparatus.)

2. Inventions I, II, and III are related as combination (II) and subcombination (I and III). Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as time of creation.

3. Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as being used to create a web for use in making reclosable bags. Invention IV is used to create reclosable tapes which can be used on containers other than bags, such as boxes.

See MPEP § 806.05(d).

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4. Inventions I and V are related as combination (V) and subcombination (I).

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require the use of a moveable tension arm. The subcombination has separate utility such as preparing webs for later use, rather than creating and filling bags at the time of creation.

5. Inventions I and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VI has separate utility such as feeding to an assembly machine in which the tape and web are not joined in any way. See MPEP § 806.05(d).

6. Inventions I and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the

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particulars of the subcombination as claimed because it does not require a zipper with the specified characteristics. The subcombination has separate utility such as providing a closure for a box.

7. Inventions I and VIII are related as method and apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the method and apparatus as claimed is not obvious for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case, the web can be produced by any method or apparatus that connects the tape to the web, not necessarily a method or apparatus using heat sealing.

8. Inventions I and IX are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, invention I does not use a tape that has been treated in places so as to be unsealable.

9. Inventions I and X are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP

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§ 806.04, MPEP § 808.01). In the instant case, invention X is a bag with premade sides and walls, while invention I creates a bag from a sheet of web material.

10. Inventions I and XI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention XI has separate utility such as use in conveying products other than webs or tapes for making bags. See MPEP § 806.05(d).

11. Inventions I and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, the fastener flange can be used as a closure for any type of container, not just bags.

12. Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require the use of



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dancer rolls. The subcombination has separate utility such as making bags for storage, rather than filling the bags at the time of creation.

13. Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as to create reclosable tapes which can be used on containers other than boxes. See MPEP § 806.05(d).

14. Inventions II and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process can be performed with operator-indexed synchronization, rather than the computer control of invention V.

15. Inventions II and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VI has separate utility such as feeding to an assembly machine in which the tape and web are not joined together in any way. See MPEP § 806.05(d).

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16. Inventions II and VII are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require a zipper with the specified characteristics. The subcombination has separate utility such as providing closure for a box.

17. Inventions II and VIII are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the web can be produced by any method that connects the tape to the web, not necessarily a method using heat sealing.

18. Inventions II and IX are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, invention II does not use a tape that has been treated in places so as to be unsealable.

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19. Inventions II and X are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, invention X is a bag with premade sides and walls, while invention II creates a bag from a sheet of web material.

20. Inventions II and XI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention XI has separate utility such as conveying products other than webs or tapes for making bags. See MPEP § 806.05(d).

21. Inventions II and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the fastener flange can be used as a closure for any type of container, not just bags.

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22. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as to create reclosable tapes which can be used on containers other than bags, such as boxes. See MPEP § 806.05(d).

23. Inventions III and V are related as combination (V) and subcombination (III). Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require the use of an h-shaped fastener flange. The subcombination has separate utility such as making bags by using operator-indexed movement rather than the computer control of the combination.

24. Inventions III and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VI has separate utility such as feeding to an assembly machine in which the tape and web are not joined in any way. See MPEP § 806.05(d).

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25. Inventions III and VII are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require a zipper with the specified characteristics. The subcombination has separate utility such as providing a closure for a box.

26. Inventions III and VIII are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the web can be produced by any method that connects the tape to the web, not necessarily a method using heat sealing.

27. Inventions I and IX are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, invention III does not use a tape that has been treated in places so as to be unsealable.

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28. Inventions III and X are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, invention X is a bag with premade sides and wall, while invention III creates a bag from a sheet of web material.

29. Inventions III and XI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention XI has separate utility such as use in conveying products other than webs or tapes for making bags.

30. Inventions III and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, the fastener flange can be used as a closure for any type of container, not just bags.

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31. Inventions IV and V are related as combination (V) and subcombination (IV).

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require a folded tape with the claimed specifications of invention IV. The subcombination has separate utility such as a closure tape for another type of container, such as a reclosable box.

32. Inventions IV and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the reclosable seal does not have multiple part feeds that need to be synchronized.

33. Inventions IV and VII are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the method can produce a tape without the flange, fold, lip configuration of invention VII.

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34. Inventions IV and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, the web does not require a tape.

35. Inventions IV and IX are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus can be used to produce a tape which is not slit.

36. Inventions IV and X are related as combination (X) and subcombination (IV). Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the bag does not require a folded tape. The subcombination has separate utility such as to provide a closure for another type of container, such as a box.



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37. Inventions IV and XI and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, invention IV does not need the vacuum belt of invention XI nor does it need a closure with the fastener flange of invention XII.

38. Inventions V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention V does not require the specific position sensors or input modalities of invention VI.

39. Inventions V and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require a zipper with the specified characteristics.. The subcombination has separate utility such as providing a closure for a box.

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40. Inventions V and VIII are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the web can be produced by any apparatus the connects the tape to the web, not necessarily by heat sealing.

41. Inventions V and IX are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case invention V does not use a tape that has been treated in places to be unsealable.

42. Inventions V and X are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case invention X is a bag with premade sides and walls, while invention V creates a bag from a sheet of web material.

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43. Inventions V and XI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention XI has separate utility such as use in conveying products other than webs or tapes for making bags. See MPEP § 806.05(d).

44. Inventions V and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, the fastener flange can be used as a closure for any type of container, not just bags.

45. Inventions VI and VII, VIII, IX, X, XI, & XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, none of inventions VII-XII require the position sensors and synchronization means of invention VI.

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46. Inventions VII and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case, the web of invention VIII does not utilize a tape as claimed in invention VII.

47. Inventions VII and IX are related as apparatus (IX) and product made (VII). The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the apparatus of invention IX can be used for making a tape without the flange, fold, lip structure of invention VII.

48. Inventions VII and X & XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case neither the bag of invention X nor the belt of invention XI requires or uses the tape of invention VII.

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49. Inventions VII and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case inventions VII and XII claim different flange configurations that are each usable without the other.

50. Inventions VIII and inventions IX-XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the web of invention VIII is not used at all in invention IX, is not used in invention X (since the bag is made of preformed walls and sides), is not conveyed in invention XI, and is not a part of invention XII.

51. Inventions IX and inventions X-XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the tape of invention IX is not claimed or used in inventions IX-XII.

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52. Inventions X and XI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the bag is not transported on a conveyor.

53. Inventions X and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the bag of invention X does not claim the specific structure of the flange of inveniton XII.

54. Inventions XI and XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the fastener flange of inveniton XII is not transported on a conveyor.

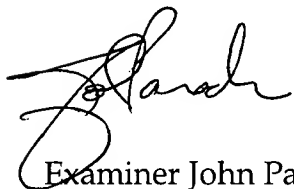
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55. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

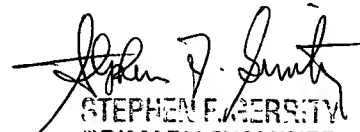
56. A telephone call was made to Mr. Robert S. Beiser on April 27, 1998 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

57. Any inquiry concerning this communication or earlier communications from the examiner should be directed to:



Examiner John Paradiso  
Telephone: (703) 308-2825  
Fax: (703) 305-3579/3580



STEPHEN F. GERSITY  
PRIMARY EXAMINER  
GROUP 3720

April 27, 1998